

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN THE MATTER OF:

JOSE A. RODRIGUEZ CERVERA
GARCIA APONTE, NANETTE J.

Debtors

CASE NO. 07-05589 BKT

CHAPTER 13

MOTION TO DISMISS

COMES NOW, R&G MORTGAGE CORPORATION represented by the undersigned attorney and respectfully sets forth and prays:

The undersigned attorney has been advised by the Federal Deposit Insurance Corporation ("FDIC"), as Receiver for R-G Mortgage Corporation, to continue for the time being with the legal representation of R-G Mortgage Corporation.

1. That the appearing creditor is the holder of a mortgage note in the principal balance amount of \$93,731.77, which encumbers debtor's (debtors') residence.
2. That the Plan provides for debtor(s) to continue making current post petition monthly payments to the appearing secured creditor.
3. That debtor(s) has failed to comply with the proposed terms of the Plan and currently owe the appearing secured creditor the sum \$1,841.42 (11/10 thru 12/10 + LC + LFees) in post petition arrears. See Exhibit "A" attached.
4. Pursuant to the provisions of section 1307 (c) (6) of the Code 11 USCS Section 1307 (c) (6), a party in interest may request the dismissal of a Chapter 13 bankruptcy petition whenever there is a material default by the debtor(s) with respect to a term of a confirmed plan.
5. The Courts have found cause for the dismissal of Chapter 13 bankruptcy case when the debtor(s) failed to make the payments directly to the creditor as called for under the terms of the confirmed Plan. See Estes v. Garcia, 42 Bankr. 33 (Bankr. D. Colo. 1984).

6. Included with this motion is a Verified Statement regarding the information required by this Servicemembers Civil Relief Act of 2003, and a Department of Defense Manpower Data Center Military Status Report.

WHEREFORE the appearing secured creditor prays for an order dismissing the above captioned case.

NOTICE OF RESPONSE TIME

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

CERTIFICATE OF ELECTRONIC FILING AND SERVICE

I hereby certify that on this date copy of this motion has been electronically filed with the Clerk of the Court using the CM/ECF system which will sent notification of such filing to debtor(s) attorney and to ALEJANDRO OLIVERAS RIVERA, US Chapter 13 Trustee, and also certify that I have mailed by United State Postal Service copy of this motion to the following non CM/ECF participant to debtor(s) at theirs address of record in this case.

In San Juan, Puerto Rico, on the 22 day of December, 2010.

CARDONA JIMENEZ LAW OFFICE
Attorney for R&G MORTGAGE CORPORATION
PO Box 9023593
San Juan, PR 00902-3593
Tels: (787) 724-1303, Fax No. (787) 724-1369
E-mail: cardonalaw@prtc.net

/s/José F. Cardona Jiménez, USDC PR 124504
jf@cardonalaw.com



R-G MORTGAGE**EXHIBIT - A****Request for Legal Action****TO: Cardona - Jimenez Law Office**

Loan Number: 1154

Debtor: NANETTE J. GARCIA

Debtor: JOSE A. RODRIGUEZ

BKR #: 07-05589

Date Filed: 09/28/07

Total Payments Due: 5

Pre-Petition: 3

Post-Petition: 2

Post-Petition Arrears:

2	Months @	866.00	1,732.00	Unearnd Interest \$	0.00
0	Months @	0.00	0.00	Per-Diem Interest Factor \$	0.00
0	Months @	0.00	0.00		
2	Late Charges @	42.21	84.42	Accured Interest \$	0.00

From: 11/01/10 To: 12/01/10

From: 11/01/10 To: 12/01/10

SUBTOTAL \$1,816.42

Attorney Fees 0.00

Inspections 0.00

Returned Check, Taxes, Insurance 0.00

Other Charges 25.00

TOTAL \$1,841.42**NOTE:**

All installment payments must be made up to the current month, including legal fees and late charges.

DUE DATE: 08/01/10**PRINCIPAL BALANCE** \$93,731.77**Verified Statement**

I, the undersigned, declare under penalty of perjury that the amount claimed by Movant in the foregoing Motion represents accurately the information kept in accounting books and records kept by Movant in the ordinary course of business. I further declare under penalty of perjury that I have read the foregoing Motion and that the facts alleged are true and correct to the best of my knowledge.

Name: Abraham Rivera Berrios

Title: Vicepresident Legal Division & Bankruptcy Dept.



(Signature)

This Verified Statement was prepared this 20 day of December of 2010 and includes all payments received until said date.

**IN THE UNITED STATES BANKRUPTCY COURT
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IN THE MATTER OF:

JOSE A. RODRIGUEZ CERVERA
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CASE NO. 07-05589 BKT

CHAPTER 13

VERIFIED STATEMENT

I, ABRAHAM RIVERA BERRIOS, of legal age, married, Manager of the Legal Division and Bankruptcy Department at R-G Mortgage, Corp. and resident of Guaynabo, Puerto Rico, declare under penalty of perjury as follows:

That as to this date December 21, 2010, by a search and review of the records kept by R&G MORTGAGE CORPORATION in the regular course of business in regard to debtor account with this bank there is no information that will lead the undersign to belief that debtor is a regular service member either on active duty or under a call to active duty, in the National Guard or as a Commission Officer of the Public Health Services or the National Oceanic and Atmospheric Administration (NOAA) in active duty.

The bank has not received any written notice from debtor that his military status has change as to this date.

That as part of my search I examined the documents and records available to me within our computer system.

IN TESTIMONY WHEREOF I SIGN THESE PRESENTS under penalty of perjury, in San Juan, Puerto Rico this 21 day of December, 2010.



Abraham Rivera Berrios

Department of Defense Manpower Data Center

Dec-21-2010 09:49:07



Military Status Report
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
GARCIA	NANETTE J.	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenseink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID:9KQK43SI73

Department of Defense Manpower Data Center

Dec-21-2010 09:50:10



Military Status Report
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
RODRIGUEZ	JOSE A.	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

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Report ID:8027D981GO

Case Number: 07-05589-BKT13

07-05589-BKT13|AEELA |ASUNTOS LEGALES|P O BOX 70199|SAN JUAN, PR 00936-8190
 07-05589-BKT13|BANCO BILBAO VIZCAYA ARGENTARIA PUERTO RICO |C/O ANGEL VAZQUEZ BAUZA, ESQ
 07-05589-BKT13|COOP A/C MOROVENA |LUIS FRED SALGADO ESQ|PMB 15 267 CALLE SIERRA MORENA|SAN
 07-05589-BKT13|EASTERN AMERICA INSURANCE COMPANY |PO BOX 9023862|SAN JUAN, PR 00902
 07-05589-BKT13|R&G MORTGAGE CORPORATION |CARDONA JIMENEZ LAW OFFICE|PO BOX 9023593|SAN JU
 07-05589-BKT13|RECOVERY MANAGEMENT SYSTEMS CORP |25 SE 2ND AVE STE 1120|MIAMI, FL 33131-1605
 07-05589-BKT13|US Bankruptcy Court District of P.R.|U.S. Post Office and Courthouse Building|300 Recinto Sur Street, 1
 07-05589-BKT13|AEELA |P.O. BOX 364508|SAN JUAN, PR 00936-4508
 07-05589-BKT13|BANCO BILBAO VIZCAYA ARG |ANGEL M VAZQUEZ BAUZA|PO BOX 191017|SAN JUAN PR 0
 07-05589-BKT13|BBVA BANCO |PO BOX 364745|SAN JUAN, PR 00936-4745
 07-05589-BKT13|CITIFINANCIAL |CARR PR149 INT. PR2|MANATI CENTRO PLAZA LOCAL 8|MANATI, PR 00674
 07-05589-BKT13|COOP A/C MOROVE?A |PO BOX 577|MOROVIS, PR 00687
 07-05589-BKT13|Capital Recovery II |25 SE 2nd Avenue, Suite 1120|Miami, FL 33131
 07-05589-BKT13|Citifinancial Inc |PO Box 70919|Charlotte NC 28272-0919
 07-05589-BKT13|DEPARTAMENTO DE HACIENDA |PO BOX 9024140|OFICINA 424 B|SAN JUAN, PR 00902
 07-05589-BKT13|DEPARTAMENTO DEL TRABAJO |AVE. MU?OZ RIVERA 505|HATO REY, PR 00918
 07-05589-BKT13|EASTERN AMERICA INS. CO. |PO BOX 9023862|SAN JUAN PR 00902
 07-05589-BKT13|FEDERAL LITIGATION DEPT OF JUSTICE |PO BOX 9020192|SAN JUAN, PR 00902-0192
 07-05589-BKT13|Ford Motor Credit Company LLC |Drawer 55-953|PO Box 55000|Detroit MI 48255-0953
 07-05589-BKT13|JOSE ANTONIO RODRIGUEZ CERVERA |NANETTE JUDITH GARCIA APONTE|582-31-9164
 07-05589-BKT13|PUERTO RICO ELECTRIC POWER |BANKRUPTCY CLAIMS OFFICE|PO BOX 364267|SAN JUAN
 07-05589-BKT13|R&G MORTGAGE CORPORATION |CARDONA-JIMENEZ LAW OFFICE|PO BOX 9023593|SAN JU
 07-05589-BKT13|RG MORTGAGE |PO BOX 362394|SAN JUAN, PR 00936-2394
 07-05589-BKT13|Recovery Management Systems Corporation |25 S.E. 2nd Avenue, Suite 1120|Miami, FL 33131-1605
 07-05589-BKT13|Recovery Management Systems Corporation |For GE Money Bank|dba SAM'S CLUB|25 SE 2nd Ave Ste
 07-05589-BKT13|Recovery Management Systems Corporation |For GE Money Bank|dba WALMART|25 SE 2nd Ave Ste 1
 07-05589-BKT13|SAM'S CLUB |P.O. BOX 530942|ATLANTA, GA 30353-0942
 07-05589-BKT13|TRIPLE-S PROPIEDAD |PO BOX 9023862|SAN JUAN, PR 00902
 07-05589-BKT13|WAL-MART |PO BOX 530927|ATLANTA, GA 30353-0927
 07-05589-BKT13|ALEJANDRO OLIVERAS RIVERA |ALEJANDRO OLIVERAS, CHAPTER 13 TRUS|PO BOX 902400
 07-05589-BKT13|JOSE ANTONIO RODRIGUEZ CERVERA |URB MONTE VERDE|CALLE MONTE ARARAT 510|ML
 07-05589-BKT13|MARILYN VALDES ORTEGA |VALDES-ORTEGA|P O BOX 195596|SAN JUAN, PR 00919-5596
 07-05589-BKT13|MONSITA LECAROS ARRIBAS |OFFICE OF THE US TRUSTEE (UST)|OCHOA BUILDING|500 TA
 07-05589-BKT13|NANETTE JUDITH GARCIA APONTE |URB MONTE VERDE|CALLE MONTE ARARAT 510|MAN.

Total Labels 34

PACER Service Center			
Transaction Receipt			
12/21/2010 10:16:32			
PACER Login:	ri0031	Client Code:	rg. mortgage
Description:	Creditor Mailing Matrix	Search Criteria:	07-05589-BKT13
Billable Pages:	2	Cost:	0.16